



## Federal Agency Hazardous Waste Compliance Docket ("docket")

- BACKGROUND:** The Federal Facilities Hazardous Waste Compliance Docket ("docket") identifies Federal facilities that may be contaminated with hazardous substances and that must be evaluated to determine if they pose a risk to public health or the environment. The docket, required by Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), also provides a vehicle for making information about potentially contaminated facilities available to the public. Facilities listed on the docket must complete site assessments that provide the Environmental Protection Agency (EPA) with information needed to determine whether or not the facility should be included on the National Priorities List (NPL). This Information Brief, which revises the previous Federal Agency Hazardous Waste Compliance Docket Information Brief, provides updated information on the docket listing process, the implications of listing, and facility status after listing.
- STATUTES:** Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Superfund Amendments and Reauthorization Act (SARA); Resource Conservation and Recovery Act (RCRA); and Hazardous and Solid Waste Amendments (HSWA).
- REGULATIONS:** [42 U.S.C. 9620(c)] CERCLA Section 120(c) as amended by SARA; [42 U.S.C. 9603] CERCLA Section 103; [42 U.S.C. 8925; 42 U.S.C. 8930; 42 U.S.C. 6937] RCRA Sections 3005, 3010, and 3016, respectively.
- REFERENCES:**
1. "Site Inspections (SIs) Under CERCLA," EH-231 Information Brief, EH-231-013/0493, June 1993.
  2. "Preliminary Assessments (PAs) Under CERCLA," EH-231 Information Brief, EH-231-016/0593, May 1993.
  3. "Executive Order 13580: Superfund Implementation," EH-231 Information Brief, EH-231-015/0593, May 1993.
  4. "Federal Agency Hazardous Waste Compliance Docket ("docket")," EH-231 Information Brief, EH-231-011/0192, January 1992.
  5. "Judgement Affecting Certain CERCLA Docket Facilities," EH-22 Memorandum, September 16, 1991.
  6. "Guidance for Federal Facilities on Release Notification Requirements Under CERCLA and SARA Title III," EPA Office of Emergency and Remedial Response and DOE Office of Environmental Guidance, EPA 9360.7-06, November 1990.
  7. "The Revised Hazard Ranking System: Background Information," EPA Quick Reference Fact Sheet, November 1990.
  8. "Reporting Releases of Hazardous Substances Under CERCLA and RCRA," EH-231 Information Brief, EH-231-001/0490, April 1990.

### What triggers listing on the docket?

Federal facilities are listed on the docket if they submit any information to EPA under the following authorities:

- ☐ **RCRA Section 3005**, which establishes permitting requirements for all RCRA hazardous waste treatment, storage, and disposal (TSD) facilities.
- ☐ **RCRA Section 3010**, which requires owners and operators of RCRA hazardous waste TSD facilities,

as well as generators or transporters, to notify EPA of their activities.

- ☐ **RCRA Section 3016**, which requires Federal facilities to prepare and submit to EPA an inventory of hazardous waste sites.
- ☐ **CERCLA Section 103(a)**, which requires that the National Response Center (NRC) be notified of any release [other than a Federally permitted release as defined in CERCLA Section 101(10)] of a hazardous substance exceeding the reportable quantity (RQ) from any vessel or facility (ref. 8).



- ❑ **CERCLA Section 103(c)**, which requires that the EPA be notified of any known or suspected hazardous waste sites (unless the facility is permitted under RCRA Subtitle C or operates under RCRA interim status).

EPA extracts docket information from four databases—Emergency Response Notification System (ERNS); Biennial Inventory of Federal Agency Hazardous Waste Activities; Resource Conservation and Recovery Information System (RCRIS); and Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS)—to compile a proposed docket update. The proposed update is sent to Federal agencies for comment. At the Department of Energy (DOE), the Office of Environmental Compliance (EH-22) reviews the proposed docket update and coordinates Program and Field Office comments. Formal comments are sent from the Office of the Assistant Secretary, Environment, Safety and Health to EPA Headquarters. As of the eighth update on November 10, 1993 [58 FR 59790], 89 DOE facilities were listed on the docket.

### **What types of Federal facilities are listed on the docket? What types are exempt?**

For docket purposes, EPA uses the term “Federal facility” as defined by the RCRA property-based definition [47 FR 32288 and 50 FR 28712]. This includes all contiguous properties owned by the agency or department. The docket includes facilities that are Federally owned and/or operated, such as Government-owned, contractor-operated facilities (GOCOs) as well as privately-owned and government-operated facilities (POGOs), which became eligible for listing July 17, 1992 [57 FR 31758]. All Federally owned and/or operated facilities are eligible for docket listing **except:**

- ❑ Facilities that are solely transporters as reported under RCRA Section 3010 and
- ❑ Small Quantity Generators (SQGs) that have never produced more than 1,000 kg of hazardous waste in any month and have not reported releases under CERCLA Section 103(a) or RCRA Section 3016.

However, if a SQG facility has ever generated more than 1,000 kg of hazardous waste in any month (i.e., it is an episodic generator) it will be added to the docket. Likewise,

if a SQG has ever reported (1) releases under CERCLA Section 103(a) or (2) other hazardous waste activities pursuant to any other reporting mechanism, it will be listed and a site assessment will be required.

### **How do docket updates reflect the current status of the facility?**

By statute, docket updates are to be published by EPA in the *Federal Register* every six months. Updates indicate additions, changes, and deletions, and identify the lead agency or department, facility name, city, state, zip code, reporting mechanism, EPA Region, and correction code. Correction codes identify the type of change in the listing and are defined in each docket update. The status of listed facilities is also indicated in the docket update as follows:

- ❑ Undetermined (U),
- ❑ Site Evaluation Accomplished (SEA),
- ❑ Proposed for NPL (P),
- ❑ Final on NPL (F),
- ❑ Removed from proposed NPL or no longer considered for final NPL (R), and
- ❑ Deleted from the final NPL (D).

A facility’s status may change at any time due to a number of factors, such as the availability of new site information or completion of the site assessment process. EPA provides current status information on Federal facilities listed on the docket through the docket hotline (1-800-548-1016).

Facilities are deleted from the docket list only if there was an error and they should never have been listed in the docket in the first place. Otherwise, once listed, facilities are not deleted from the docket because of the potential for future releases from the site. As mentioned, updates of the docket do include a list of facilities for which the site evaluation has been accomplished (SEA) and which are not eligible for listing on the NPL. Docket listings published before July 17, 1992, use the status code of NFRAP (No Further Response Action Planned) for those facilities for which a site assessment was completed. The NFRAP status code was replaced by the SEA status code on July 17, 1992. While the assignment of SEA means that EPA has determined that the site assessment is complete, it does not mean that there is no longer an environmental threat or potential hazard associated with the facility. Additional site remediation activities may be conducted under other authorities, such as state (e.g., RCRA), local, or tribal authorities.

## **Will a release of source, by-product, or special nuclear material cause a facility to be listed on the docket?**

Not necessarily. Under CERCLA Section 101(10)(K), Federally permitted releases, which are excluded from the notification provisions of CERCLA, include certain releases of source, by-product, or special nuclear material if such a release is in compliance with a legally enforceable license or permit, or with regulations issued by the Nuclear Regulatory Commission (NRC) pursuant to the Atomic Energy Act (AEA) of 1954. Currently DOE facilities and operations do not operate under NRC licenses, permits, etc. In this case the EPA recognizes, as Federally permitted releases, those releases from DOE facilities that meet the policies, guidelines, and requirements of NRC licenses, permits, etc., and do not exceed limits specified in DOE Orders. Also, CERCLA Section 101(22) excludes from the definition of “release,” (1) releases of source, by-product, or special nuclear material from a nuclear incident, which are subject to the requirements of the NRC Section 170 of the AEA, and (2) releases from any of the 22 processing sites specifically designated by, and subject to, the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978. Therefore, certain releases of source, by-product, or special nuclear material are exempt from notification and their release will not result in a docket listing. However, the following releases of source, by-product, or special nuclear material would trigger docket listing under CERCLA Section 103(a): a release (1) that is not Federally permitted, is not the result of a nuclear incident as defined in AEA, is not covered under UMTRCA, and equals or exceeds an RQ; or (2) that is an RQ or more in excess of a Federally permitted level, such as an NRC license, permit, order, etc., or DOE Order; or (3) whose “characteristics” (e.g., type or release conditions) are not in compliance with the Federal permit (such as an unusual occurrence, accidental discharge, etc.), and that equals or exceeds an RQ (ref. 6, 8).

## **Does docket listing require DOE to conduct a site assessment for a Hazard Ranking System (HRS) package?**

Yes. DOE must complete a PA within 18 months of the facility’s listing on the docket (ref. 2). If further investigation is required, EPA may request an SI (ref. 1). After completion of a PA/SI, DOE is responsible for submitting to EPA an “HRS package,” which is a summary of the PA/SI, facility reports, and the analysis developed during the PA/SI. The EPA then applies the HRS, which is a scoring system for

assessing the relative threat associated with actual or potential releases of hazardous substances at facilities listed on the docket and the primary mechanism for placing sites on the NPL. EPA reviews the HRS package submitted by DOE, formally assigns a numerical score to the facility, and thereby completes the site assessment. EPA proposes sites with an HRS score of 28.5 or greater for the NPL; EPA gives sites scoring below 28.5 the SEA designation. In the latter case, pursuant to DOE Order 5400.4, DOE may conduct remediation activities under other authorities, if necessary, in order to reduce adverse impacts on public health and the environment regardless of whether or not the DOE facility is listed on the NPL.

## **How has the revised Hazard Ranking System (rHRS) affected the facilities listed on the docket?**

Since becoming effective on March 14, 1991 (ref. 7), the rHRS must be used to evaluate all facilities listed on the docket for inclusion on the NPL. However, EPA was neither prevented from reevaluating, nor directed to re-evaluate, sites that scored below 28.5 with the original HRS. As stated in 40 CFR 300 [55 *FR* 51533], “...sites scored with the original HRS prior to that effective date [effective date of rHRS] need not be reevaluated.” The rHRS examines more exposure pathways (e.g., soil pathway) than the original HRS, expands the procedure for evaluating chemical hazards, and considers the threat to sensitive environments as well as to public health. Additionally, the rHRS uses a procedure that provides a more accurate measure of actual and potential human exposure and the quantity of waste at the site. For these reasons, some of the EPA regions are reevaluating sites that scored below 28.5 with the original HRS. EPA also applies the rHRS to facilities not evaluated with the original HRS even though they were listed on the docket prior to the effective date of the rHRS (i.e., facilities that were in EPA’s “backlog” of sites).

Questions of policy or questions requiring policy decisions will not be addressed in EH-413 Information Briefs unless that policy has already been established through appropriate documentation. Please refer any questions concerning the subject matter covered in this Information Brief to Jerry DiCerbo, RCRA/CERCLA Division, EH-413, (202) 586-5047.

